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| MYERS BIGEL SIBLEY & SAJOVEC, P.A. P.O. BOX 37428 RALEIGH, NC 27627 | | | | |
| | | | EXAMINER RAMPURIA, SHARAD K | |
| | | | ART UNIT 2688 | PAPER NUMBER |

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/732,784 | Applicant(s) DENNISSON ET AL. | |
| | Examiner Sharad Rampuria | Art Unit 2688 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

I. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 6-7, 10, 12-14, 17-18, 21, 23-25, 28-29 & 32 are rejected under 35 U.S.C. 102 (e) as being anticipated by Curcio et al. [US 20040057420].

As per Claim 1, Curcio disclose:

A method of operating a communication network (Abstract), comprising:

Providing a wireless communication network that has bandwidth associated therewith to facilitate communication between at least one mobile terminal and another communication device; (i.e. transmission bit rate; Pg.2; 0025-0029 and Pg.4; 0061) and

Transmitting streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network. (i.e. performing according to bandwidth; Pg.2; 0030, Pg.4; 0077-0078 and Claim 1)

As per Claim 2, Curcio disclose:

The method of claim 1, wherein transmitting the streaming media comprises: transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using third generation (3G) wireless communication technology. (i.e 3rd generation; Pg.4; 0060)

As per Claim 3, Curcio disclose:

The method of claim 2, wherein transmitting the streaming media comprises: transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using wideband code division multiple access (WCDMA) technology, universal mobile telecommunications system (UMTS) technology, and/or enhanced data GSM (global system for mobile communications) environment technology. (i.e. UMTS; Pg.5; 0101 and Pg.7; 0145)

As per Claim 6, Curcio disclose:

The method of claim 1, wherein the streaming media comprises text and/or audio content. (i.e. video/audio; Pg.7; 0146)

As per Claim 7, Curcio disclose:

The method of claim 1, wherein the streaming media comprises video content. (i.e. video/audio; Pg.7; 0146)

As per Claim 10, Curcio disclose:

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The method of claim 1, wherein transmitting the streaming media comprises: transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network while moving the at least one mobile terminal between cells associated with the wireless network. (i.e. roaming between two networks; Pg.7; 0152)

As per Claim 12, Curcio disclose:

A communication system (Abstract), comprising:

Means for providing a wireless communication network that has bandwidth associated therewith to facilitate communication between at least one mobile terminal and another communication device; (i.e. transmission bit rate; Pg.2; 0025-0029 and Pg.4; 0061) and

Means for transmitting streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network. (i.e. performing according to bandwidth; Pg.2; 0030, Pg.4; 0077-0078 and Claim 1)

As per Claim 13, Curcio disclose:

The system of claim 12, wherein the means for transmitting the streaming media comprises: means for transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using third generation (3G) wireless communication technology. (i.e 3rd generation; Pg.4; 0060)

As per Claim 14, Curcio disclose:

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The system of claim 13, wherein the means for transmitting the streaming media comprises: means for transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using wideband code division multiple access (WCDMA) technology, universal mobile telecommunications system (UMTS) technology, and/or enhanced data GSM (global system for mobile communications) environment technology. (i.e. UMTS; Pg.5; 0101 and Pg.7; 0145)

As per Claim 17, Curcio disclose:

The system of claim 12, wherein the streaming media comprises text and/or audio content. (i.e. video/audio; Pg.7; 0146)

As per Claim 18, Curcio disclose:

The system of claim 12, wherein the streaming media comprises video content. (i.e. video/audio; Pg.7; 0146)

As per Claim 21, Curcio disclose:

The system of claim 12, wherein the means for transmitting the streaming media comprises: means for transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network while moving the at least one mobile terminal between cells associated with the wireless network. (i.e. roaming between two networks; Pg.7; 0152)

As per Claim 23, Curcio disclose:

A computer program product (i.e. CPU; Pg.6; 0111) for operating a communication network (Abstract), comprising:

A computer readable storage medium having computer readable program code embodied therein, the computer readable program code (i.e. CPU; Pg.6; 0111) comprising:

Computer readable program code (i.e. CPU; Pg.6; 0111) configured to provide a wireless communication network that has bandwidth associated therewith to facilitate communication between at least one mobile terminal and another communication device; (i.e. transmission bit rate; Pg.2; 0025-0029 and Pg.4; 0061) and

Computer readable program code (i.e. CPU; Pg.6; 0111) configured to transmit streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network. (i.e. performing according to bandwidth; Pg.2; 0030, Pg.4; 0077-0078 and Claim 1)

As per Claim 24, Curcio disclose:

The computer program product of claim 23, wherein the computer readable program code configured to transmit the streaming media comprises: computer readable program code configured to transmit the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using third generation (3G) wireless communication technology. (i.e 3rd generation; Pg.4; 0060)

As per Claim 25, Curcio disclose:

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The computer program product of claim 24, wherein the computer readable program code configured to transmit the streaming media comprises: computer readable program code configured to transmit the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using wideband code division multiple access (WCDMA) technology, universal mobile telecommunications system (UMTS) technology, and/or enhanced data GSM (global system for mobile communications) environment technology. (i.e. UMTS; Pg.5; 0101 and Pg.7; 0145)

As per Claim 28, Curcio disclose:

The computer program product of claim 23, wherein the streaming media comprises text and/or audio content. (i.e. video/audio; Pg.7; 0146)

As per Claim 29, Curcio disclose:

The computer program product of claim 23, wherein the streaming media comprises video content. (i.e. video/audio; Pg.7; 0146)

As per Claim 32, Curcio disclose:

The computer program product of claim 23, wherein the computer readable program code configured to transmit the streaming media comprises: computer readable program code configured to transmit the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network while moving the at least one mobile terminal

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between cells associated with the wireless network. (i.e. roaming between two networks; Pg.7; 0152)

Claim Rejections - 35 USC § 103

II. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 4-5, 8-9, 15-16, 19-20, 26-27 & 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curcio in view of Inselberg [US 20040171381].

As per claim 4, Curcio teaches all the particulars of the claim except a Wi-Fi communication network. However, Inselberg teaches in an analogous art, that the method of claim 1, wherein the wireless communication network comprises a Wi-Fi communication

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network. (i.e. Wi-Fi; Pg.5; 0035) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a Wi-Fi communication network in order to provide a method and apparatus for interactive audience participation at live spectator events.

As per claim 5, Curcio teaches all the particulars of the claim except a IEEE 802.11b technology. However, Inselberg teaches in an analogous art, that the method of claim 4, wherein transmitting the streaming media comprises: transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using IEEE 802.11b technology. (i.e. IEEE 802.11; Pg.5; 0035) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a IEEE 802.11b technology in order to provide a method and apparatus for interactive audience participation at live spectator events.

As per claim 8, Curcio teaches all the particulars of the claim except AM, FM radio broadcast. However, Inselberg teaches in an analogous art, that the method of claim 1, wherein the streaming media comprises content from a television broadcast, an amplitude modulation (AM) radio broadcast and/or a frequency modulation (FM) radio broadcast. (i.e. AM, FM; Pg.3; 0026) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include AM, FM radio broadcast in order to provide a method and apparatus for interactive audience participation at live spectator events.

As per claim 9, Curcio teaches all the particulars of the claim except a video conference and/or a gaming application. However, Inselberg teaches in an analogous art, that the method of claim 1, wherein the streaming media comprises content from a video conference and/or a gaming application. (i.e. live events; Pg.3; 0026) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a video conference and/or a gaming application in order to provide a method and apparatus for interactive audience participation at live spectator events.

As per claim 15, Curcio teaches all the particulars of the claim except a Wi-Fi communication network. However, Inselberg teaches in an analogous art, that the method of claim 12, wherein the wireless communication network comprises a Wi-Fi communication network. (i.e. Wi-Fi; Pg.5; 0035) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a Wi-Fi communication network in order to provide a method and apparatus for interactive audience participation at live spectator events.

As per claim 16, Curcio teaches all the particulars of the claim except a IEEE 802.11b technology. However, Inselberg teaches in an analogous art, that the method of claim 15, wherein transmitting the streaming media comprises: transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using IEEE 802.11b technology. (i.e. IEEE 802.11; Pg.5; 0035) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a IEEE 802.11b technology

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in order to provide a method and apparatus for interactive audience participation at live spectator events.

As per claim 19, Curcio teaches all the particulars of the claim except AM, FM radio broadcast. However, Inselberg teaches in an analogous art, that the method of claim 12, wherein the streaming media comprises content from a television broadcast, an amplitude modulation (AM) radio broadcast and/or a frequency modulation (FM) radio broadcast. (i.e. AM, FM; Pg.3; 0026) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include AM, FM radio broadcast in order to provide a method and apparatus for interactive audience participation at live spectator events.

As per claim 20, Curcio teaches all the particulars of the claim except a video conference and/or a gaming application. However, Inselberg teaches in an analogous art, that the method of claim 12, wherein the streaming media comprises content from a video conference and/or a gaming application. (i.e. live events; Pg.3; 0026) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a video conference and/or a gaming application in order to provide a method and apparatus for interactive audience participation at live spectator events.

As per claim 26, Curcio teaches all the particulars of the claim except a Wi-Fi communication network. However, Inselberg teaches in an analogous art, that the method of claim 23, wherein the wireless communication network comprises a Wi-Fi communication

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network. (i.e. Wi-Fi; Pg.5; 0035) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a Wi-Fi communication network in order to provide a method and apparatus for interactive audience participation at live spectator events.

As per claim 27, Curcio teaches all the particulars of the claim except a IEEE 802.11b technology. However, Inselberg teaches in an analogous art, that the method of claim 26, wherein transmitting the streaming media comprises: transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using IEEE 802.11b technology. (i.e. IEEE 802.11; Pg.5; 0035) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a IEEE 802.11b technology in order to provide a method and apparatus for interactive audience participation at live spectator events.

As per claim 30, Curcio teaches all the particulars of the claim except AM, FM radio broadcast. However, Inselberg teaches in an analogous art, that the method of claim 23, wherein the streaming media comprises content from a television broadcast, an amplitude modulation (AM) radio broadcast and/or a frequency modulation (FM) radio broadcast. (i.e. AM, FM; Pg.3; 0026) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include AM, FM radio broadcast in order to provide a method and apparatus for interactive audience participation at live spectator events.

As per claim 31, Curcio teaches all the particulars of the claim except a video conference and/or a gaming application. However, Inselberg teaches in an analogous art, that the method of claim 23, wherein the streaming media comprises content from a video conference and/or a gaming application. (i.e. live events; Pg.3; 0026) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a video conference and/or a gaming application in order to provide a method and apparatus for interactive audience participation at live spectator events.

Claims 11, 22 & 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curcio in view of Milford et al. [US 20030224781].

As per claim 11, Curcio teaches all the particulars of the claim except obtaining a subscription at the wireless network from the at least one mobile terminal for the streaming media. However, Milford teaches in an analogous art, that the method of claim 1, further comprising: performing the following before transmitting the streaming media to the at least one mobile terminal: obtaining authorization from a media broadcaster that provides the streaming media to rebroadcast the streaming media over the wireless network; and obtaining a subscription at the wireless network from the at least one mobile terminal for the streaming media. (i.e. subscription; Pg.4; 0044) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include obtaining a subscription at the wireless network from the at least one mobile terminal for the streaming media in order to provide a series of

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apparatus and methods to efficiently organize and accommodate the delivery of variable products and services to variable types of users.

As per claim 22, Curcio teaches all the particulars of the claim except obtaining a subscription at the wireless network from the at least one mobile terminal for the streaming media. However, Milford teaches in an analogous art, that the method of claim 12, further comprising: performing the following before transmitting the streaming media to the at least one mobile terminal: obtaining authorization from a media broadcaster that provides the streaming media to rebroadcast the streaming media over the wireless network; and obtaining a subscription at the wireless network from the at least one mobile terminal for the streaming media. (i.e. subscription; Pg.4; 0044) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include obtaining a subscription at the wireless network from the at least one mobile terminal for the streaming media in order to provide a series of apparatus and methods to efficiently organize and accommodate the delivery of variable products and services to variable types of users.

As per claim 33, Curcio teaches all the particulars of the claim except obtaining a subscription at the wireless network from the at least one mobile terminal for the streaming media. However, Milford teaches in an analogous art, that the method of claim 23, further comprising: performing the following before transmitting the streaming media to the at least one mobile terminal: obtaining authorization from a media broadcaster that provides the streaming media to rebroadcast the streaming media over the wireless network; and obtaining a

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subscription at the wireless network from the at least one mobile terminal for the streaming media. (i.e. subscription; Pg.4; 0044) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include obtaining a subscription at the wireless network from the at least one mobile terminal for the streaming media in order to provide a series of apparatus and methods to efficiently organize and accommodate the delivery of variable products and services to variable types of users.

Conclusion

III. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Praveenkumar et al. disclose an electronic device such as a radio communication device includes a modality manager which can select input and/or output modalities based on available bandwidth and associated cost savings to the end user.

Zhigang disclose a mobile information servers providing information resources.

Wang disclose a method for providing a selected wireless connection between a telematics unit and a call center.

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IV. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870.


The examiner can normally be reached on M-F. (8:15-4:45).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on (571) 272-7495. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or EBC@uspto.gov.

Sharad Rampuria
Examiner
Art Unit 2683

October 11, 2005


GEORGE ENG
PRIMARY EXAMINER